



*Direct Dial: 212.880.9882
E-Mail: spopofsky@kkwc.com*

May 29, 2020

VIA ECF

Hon. Alison J. Nathan
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: Benthos Master Fund, Ltd. v. Etra, No. 20-cv-3384

Dear Judge Nathan:

This firm represents petitioner Benthos in connection with the above application to confirm an arbitration award. We write to report respondent's default in opposing the petition and to request that the relief sought in the petition be granted at the earliest possible opportunity, as set forth in detail below.

On May 4, 2020, the Court entered an Order which required, among other things, that (i) petitioner file a memorandum of law in support of the petition; (ii) petitioner serve respondent; and (iii) respondent's opposition "shall be due two weeks from date of service."

Petitioner served respondent with the petition and summons and the Court's order on May 5, 2020, as evidenced by the affidavit of service filed on May 11 (Dkt. 9). Petitioner filed its memorandum of law on May 6 (Dkt. 8), and served respondent with that memorandum of law on May 7, as evidenced by the additional affidavit of service filed on May 11 (Dkt. 10). Respondent's opposition, if any, was therefore due on Tuesday, May 26 (allowing time for mailing – although petitioner also sent all papers via e-mail – and for the holiday weekend).

Respondent has not filed or served papers opposing the petition.

We know that respondent has actual notice of the petition, its supporting papers and the Court's Order in connection therewith because on May 6 and thereafter, petitioner's counsel was contacted by a lawyer on behalf of Mr. Etra, who indicated his awareness of this proceeding and the May 26 deadline to respond. That lawyer has not entered an appearance, nor has respondent appeared pro se.



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As set forth in detail in the petition and the underlying arbitration award for over \$5 million, respondent – a New York lawyer who served as Escrow Agent and has been held to have violated his fiduciary and other duties in disposing of petitioner’s funds improperly and refusing to provide documents and information about those funds, and who returned limited funds and provided limited information only after being threatened with imprisonment for contempt of court by the late Hon. Deborah Batts – has engaged for years in a pattern of obstructing and delaying petitioner’s attempts to vindicate its rights, and recover the funds lost through respondent’s faithless exercise of his obligation, through the legal system. Accordingly, we respectfully request that (consistent with the Court’s workload and constraints during this unusual period) the relief requested in the petition be granted at the earliest opportunity so that petitioner can convert its arbitration award into a judgment and seek to enforce it.

We thank the Court for its consideration and hope that everyone is staying healthy.

Respectfully yours,

Steven R. Popofsky
Steven R. Popofsky

SRP:sg